

# SUPREME COURT OF ARKANSAS

IN RE: ACCESS TO  
JUSTICE COMMISSION AND  
BAR OF ARKANSAS LICENSE FEES

Opinion Delivered April 2, 2009

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## PER CURIAM

The Arkansas Bar Association petitioned this court to create the Arkansas Access to Justice Commission, and the petition was granted in 2003. *See In Re: Arkansas Bar Association Petition for Creation of the Arkansas Access to Justice Commission*, 355 Ark. Appx. 709 (2003). The purpose of the Commission is to “coordinate efforts to improve access to the civil justice system for poor and near-poor individuals who cannot afford attorneys for representation in civil legal matters.” *Id.* at 710. The goals of the Commission are set out in the *per curiam* order:

- A. Develop an objective and accurate understanding of the problems Arkansans face in using our legal system to obtain justice in civil cases.
- B. Devise a strategic plan for statewide delivery of civil legal services to all Arkansans.
- C. Review and report on the efficient allocation and application of the available resources.
- D. Educate the people of Arkansas about the importance of equal access to justice and of the problems many Arkansans face in gaining effective

access to our civil justice system.

E. Encourage a strong and consistent commitment to providing equal access to justice among the leaders of our state.

F. Suggest innovations that will increase effective access to the civil justice system for all Arkansans.

G. Provide technical and other support to the efforts of the legislature, courts, and other government agencies to improve access to justice for the people of Arkansas.

H. Develop stable, long-term funding and other resources to support access to civil justice.

*Id.* at 711-712. The Commission consists of fifteen members appointed by the Governor, Arkansas Bar Association, Speaker of the House, President Pro Tempore of the Senate, and the Supreme Court.

Since its inception, staff support for the Commission has been provided by Arkansas Legal Services Partnership (“Partnership”), a consortium of two nonprofit legal services programs, the Center for Arkansas Legal Services and Legal Aid of Arkansas. However, staff support for the Commission is not the primary function of either of these entities<sup>1</sup>. They have

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<sup>1</sup> The Center for Arkansas Legal Services, based in Little Rock, and Legal Aid of Arkansas, headquartered in Jonesboro, are 501(c)3 nonprofit organizations that provide free legal services to low-income Arkansans in non-criminal cases in such legal areas as family, consumer,

much on their plates already, and limited funding further strains their ability to meet the growing demand for free legal services, especially during times of economic recession.

The Supreme Court has not provided staff or financial support to the Commission. The court has approximately sixteen committees and boards which are supported by revenues from attorney license fees. Since the Commission is a creature of the court, created at the behest of the Arkansas Bar Association, we believe that it should receive financial and staff assistance from the court as these other entities.

The court has historically tried to explain to Arkansas attorneys how the Bar of Arkansas License Fee funds are used, why the assessment levels are set as they are, and why the need for an increase if one is being made. When we last addressed this topic in 2001, the Commission was not in existence, so its funding was not on the table. If it had been created, we have little doubt that it would have been included.

In 2001, the annual dues for membership in the Bar of Arkansas were raised, effective January 1, 2008, as follows: an annual license fee of \$200.00 for lawyers who have been licensed for three or more years, \$125.00 for new enrollees who have been licensed for fewer than three years, and \$20.00 for lawyers who are sixty-five years of age or older. *See In Re Bar of Arkansas License Fees*, 346 Ark. Appx. 574, 575 (2001). At that time, we discussed the history of the assessment of annual dues and various increases over the years. In particular, we explained the reasons for the need to increase the assessments, including: “new costs related

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housing, elder, landlord-tenant, social security, medicaid, and medicare. Together the two programs serve clients in all seventy-five counties in Arkansas.

to the implementation of the Arkansas Lawyer Assistance Program, restructure and expansion of the operations of the Office of Professional Conduct, and the need for additional resources for the Client Security Fund. These new and revised programs arose from the recommendations made by the Arkansas Bar Association, the American Bar Association, and individual members of the Bar.” *Id.* at 575.

In 2001, we anticipated that in the 2008–2009 time frame, there would be a deficit. Fortunately, our projections have not held true, and we are not currently running a deficit. With better than expected resources, the Supreme Court is in position to address the needs of the Commission, a need that heretofore has been borne by the Arkansas Legal Services Partnership.

As we have done in connection with other funding needs, we will take this opportunity to explain why the Commission should be supported by license fees revenue. The work of the Commission has been referenced in the *per curiam* order creating it. Going to the Commission’s website ([www.arkansasjustice.org](http://www.arkansasjustice.org)) will illustrate the work of the Commission and how far it has come since its creation in 2003. The Commission is organized in five committees: Legal Services, Pro Bono, Court Assistance, Education, and Legislative.

The Legal Services Committee seeks to address the wide disparity in access to justice for low-income individuals and families. The context for this work is the ever shrinking federal revenue support which since 1995 has been reduced over \$2,000,000 in Arkansas. The census identifies 411,777 Arkansans eligible for free civil legal services. These are families at

or below 125% of the poverty level.<sup>2</sup> The Center for Arkansas Legal Services and Legal Aid of Arkansas cannot handle all the cases that come to them. Additional resources will be required to better address the legal needs of the poor in our state.

The Pro Bono Committee works to improve and expand the pro bono services provided by attorneys in this state and to provide resources to these attorneys.

The Court Assistance Committee strives to make the courts more accessible to self-represented/pro se litigants and to identify measures to be taken by the courts, the bar, legal service providers, and other stakeholders to assist the pro se litigants. Simplified forms, online resources offices, and information in languages other than English are such measures.

The Education Committee seeks to inform the state's legal community and entire population about the needs for legal aid, including the plight of the poor, and the limited resources available to service them. To aid in these efforts, a DVD was produced entitled "Access to Justice" and is available for showing at various public forums throughout the state and is also available online.

The Legislative Committee works to obtain funding from the State of Arkansas for civil legal aid for low-income Arkansans.

In looking at the work of the Commission, there can be no doubt of the need for staff assistance. The work of the Partnership and the Commission are inextricably linked, and financial support from the court will assist the Commission in achieving its goals and will

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<sup>2</sup> See Arkansas Access to Justice Commission Website: <http://www.arkansasjustice.org/about.html>.

assist the Partnership in its mission of providing free legal services to low-income Arkansans.

Finally, on a related matter, the court has observed that the work of Arkansas IOLTA Foundation, Inc., and the Commission overlap in many areas, and there are a number of individuals serving on both the IOLTA Board of Directors and the Commission. We request that the IOLTA Board of Directors and members of the Commission explore possible options regarding mission and structure and report to the court as to how the needs for legal services to low-income Arkansans can best be met.